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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ANDREW H. SOLL

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11/15/2005

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EXAMINER

RIMELL, SAMUEL G

ART UNIT

PAPER NUMBER

-2164

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/289,044	Applicant(s) SOLL ET AL.	
	Examiner Sam Rimell	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 65-73 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 65-73 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 2164

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 65-73 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 65: In line 17, the phrase “such as past current or never” is indefinite since it is not clear if these examples are limiting the claim. If recited examples are intended to limit the claim, than they should be positively recited, and not described as examples. Lines 37-38 also recite examples where it is not clear if the examples are limiting the claim.

Claim 66: The phrase “such as concurrent fever, sweats, headache, sore throat, being part of a common flu” at lines 6-7 are indefinite since they are cited as an example and is not clear if the example is limiting the claim. The phrase “such as coming and going together in the same time pattern” in line 16 is recited as an example and is indefinite.

Claim 67: The phrase “such as bowel symptoms or bone joint symptoms” in lines 6-7 are cited as an example and are indefinite.

Claim 68: Depends on claim 65.

Claim 69: The phrase “such as physical symptoms, health conditions, emotional problems or issues” in lines 8-9 are indefinite since they are recited as an example.

Claim 70: Lines 22-24 recite the example of a patient at risk for coronary heart disease, where recitation of such example is indefinite.

Claims 71-73: Depend on claim 65.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 65-73 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 65: The following statements are not recited in the original specification:

- (1) Lines 13-14: “minimize how many exploratory questions asked”
- (2) Line 14: “reserve detailed questions for positive groups”
- (3) Line 19: “degree of bother”
- (4) Lines 21-22: “rephrase subsequent more detailed questions”.
- (5) Line 28: “configuration profile”
- (6) Line 28: “hierarchy of configuration profiles”
- (7) Line 36: “configuration profile”.

Claim 66: The following statements are not recited in the original specification:

- (1) Line 5: “potential associations between symptoms”
- (2) Lines 6-7: “such as concurrent fever, sweats, headache, and sort throat being part of a common flu”
- (3) Lines 10-11: “index symptom”

(4) Line 12: “index symptoms”

(5) Line 16: “coming and going together in the same time pattern”

(6) Line 18: “redundant characterization detail is skipped”

(7) Line 21: “risk of frustrating the patient is reduced”.

Claim 67: The following statements are not recited in the original specification:

(1) Lines 3-4: “confound clinical assessment of the patient”

(2) Line 8: “functional status”

(3) Line 12: “separate scores a calculated for each of said symptom groups”.

Claim 68: The following statements are not recited in the original specification:

(1) Line 2: “functional status”

(2) Lines 4-5: “plurality of generic domains”

(3) Lines 6-7: “physical agility”

(4) Line 7: “flexibility”

(5) Line 7: “full use of limbs and hands”

Claim 69: The following statements are not recited in the original specification:

(1) Line 2: “perception of impact”

(2) Line 3: “functional status”

(3) Line 4: “aggregate and specific impact”

(4) Line 7: “functional status”

(5) Line 10: “sequentially display”

(6) Line 11: “one or more generic quality of life issues”

Claim 70: The following statements are not recited in the original specification:

- (1) Line 8: “patient willingness to change health behaviors”
- (2) Lines 8-9: “patient perception of communication with a clinician”
- (3) Line 9: “whether patients felt heard and respected”
- (4) Lines 9-10: “patient observation about health care received”
- (5) Lines 18-19: “improvement data are presented to clinicians with suggestions regarding correcting apparent problems with the quality of care”
- (6) Line 24: “not knowing early signs of gastrointestinal bleeding”

Claim 71: The following statements are not recited in the original specification:

- (1) Line 2: “severity index” and “calculate severity index”
- (2) Line 5: “different levels of severity”
- (3) Line 5: “assigned logarithmic values”
- (4) Lines 5-6: “mild equals 1, moderate equals 10, and very severe equals 1000”
- (5) Line 8: “an arithmetic mean of values”
- (6) Line 9: “individual scores and arithmetic mean are reported to facilitate interpretation”

Claim 72: The following statements are not recited in the original specification:

- (1) Line 2: “enabling patient recruitment”
- (2) The entire content of sections (a)-(d), lines 4-11.

Claim 73: The following statements are not recited in the original specification:

- (1) Line 2: “patient who agrees to participate in research”

Art Unit: 2164

Remarks

Applicant's arguments are moot in light of the cancellation of all previous claims and the submission of new claims 65-73. Each of claims 65-73 contain portions of new matter, as documented herein. Applicant is recommended to give consideration to canceling current claim set and proceeding with a new claim set that is fully consistent with the original specification.

This action is made non-final.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell
Primary Examiner
Art Unit 2164